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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/752,882 | 12/28/2000 | Luke E. Girard | 42390P10236 | 9419 |

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EXAMINER

DANG, KHANH NMN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2181

DATE MAILED: 07/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/752,882

Applicant(s)

GIRARD, LUKE E.

Examiner

Khanh Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is directed to a structure. However, the essential structural cooperative relationships between elements in the claim have been omitted, such omission amounting to a gap between the elements. See MPEP § 2172.01.

With regard to claim 4, it is not ascertained what may be “a second pre-operating system software program” and its relationships with other recited elements in the claim. Such “pre- operating system software program” has not been properly defined or recited in the claim.

In claim 8, it is not ascertained what may be “a second operating present software program” and its relationships with other recited elements in the claim. Such “second operating present software program” has not been properly defined or recited in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Frank, Jr. et al.

It is first noted that similar claims will be grouped together to avoid repetition in explanation.

As broadly drafted and at best the Examiner can ascertain from the language of the claims, these claims do not define any structure/step that differs from Frank, Jr. et al.

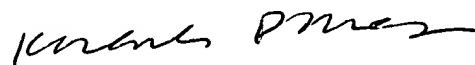
With regard to claims 1, 3, and 6, Frank, Jr. et al. discloses a computing device comprising: an operating system (microprocessor 330, 430 executes program code, including operating system code and application program code, and reads or writes data in conjunction with code execution); a pre-operating system software program (in Frank, Jr. et al., a small BIOS program stored in a ROM 238. The BIOS program reads a default area of the disk which stores a boot program, known as a boot record, and stores the program in the memory array. The microprocessor (330, 430) then executes the boot program to load an operating system; an operating system present software program (in Frank, Jr. et al., a disk control program, for example); a protected storage medium configured to enable the pre-operating system software program to pass an information to the operating system present software program (in Frank, Jr. et al., microprocessor 310, for example, executes a disk control program to initialize the disk drive. A portion of the storage capacity on disks 303 is partitioned to provide a protected area of disk addresses which are known to the disk control program, but are inaccessible to host computer 330). See also at least claim 1. With regard to claim 2, Frank, Jr. et al. further disclose a first interface (324, for example) to provide the pre-operating system software program access to the protected storage medium; and a second interface (320, for example) to provide the operating system present software program access to the protected storage medium. With regard to claim 4, in Frank, Jr. et al., any pre-OS application program executed during initial boot process before the OS is loaded including those associated with various peripheral attached to the host computer) is readable as the so-called "second "pre-operating software program." With

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regard to claims 5, 7, a secure boot of a host computer system is provided from a protected area of a disk. With regard to claim 8, in Frank, Jr. et al., any application that runs while the OS is present is readable as the so-called "second operating system present software program." With regard to claims 9 and 10, the protected area is sufficient to store an image source 304 suitable to recreate a fully functional operating image in memory 340. When computer system 300 is initialized, such as following a power-up sequence, host interface controller 320 asserts a state-control signal 337 which is translated in host interface 334. With regard to claims 11-25, one using the system of Franks, Jr. et al., or the system of Frank, Jr. et al. would have performed the same method steps set forth in claim 11-25.

U.S. Patent Nos. 6,138,239 to Veil, 5,844,986 to Davis, and 5,022,077 to Bealkowski et al. are cited as relevant art.

Any inquiry concerning this communication should be directed to Khanh Dang at telephone number 703-308-0211.



Khanh Dang
Primary Examiner